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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
NAWAZ, ASAD M

ART UNIT	PAPER NUMBER
2155	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/842,753	AHO ET AL.
	Examiner	Art Unit	
	Asad M. Nawaz	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>26 October 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the amendment received 6/18/07. Claims 1, 9, and

17 were amended. No new claims were added. No claims have been canceled.

Accordingly, claims 1-17 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. More specifically, it is unclear what is meant by the

phrase "completely forming" as it could be understood to mean 1) entirely forming

messages without using information from other layers or 2) simply completing an

existing message from another message passed up by another layer. Although the

applicants have explained their position clearly, the claim language is still ambiguous

and both definitions have support in the specification. It is recommended that the claim

language be more clearly recited to disclose intended subject matter.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5.   **Claims 1-3, 5-6, 8-11, and 13-14, 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gleeson et al, 5,627,829, (hereafter Gleeson).**

As per claim 1, Gleeson teaches a method for transmitting information between applications executed in a first and a second data transmission device in a data transmission system (col. 6, lines 40-42), the method comprising: using a data transmission protocol in the information transmission performing one or more protocol conversions in the protocol stack for information to be transmitted (col. 10, lines 2730, 40-46; protocols are converted into compatible formats that can be transmitted between application devices), said protocol stack comprising at least an application layer and a physical layer (200, 208, figure 2; protocol stack comprises plurality of layers such as application, physical, etc.); and transmitting messages between the first data transmission device and the second transmission device, the transmitting comprising completely forming messages by the application layer from the information to be transmitted (col. 6, lines 47-56; message data are generated in the application layer to be transmitted over the network).

Claims 9 and 17 are rejected by similar rationale as claim 1.

As per claims 2-3 and 10-11, Gleeson teaches transmitting at least two types of components in the messages, wherein the messages contain information on the type of the message transmitted in the message (1530, '1532, fig. 15; col. 16, lines 15-17; type and sequence number subfields are components of the data packet being transmitted

between the devices); a header field, on the basis of which the type of the message is determined (col. 15, line 65 - col, 16, line 2; data packet includes a header field that includes the type subfield that defines the type of the packet).

As per claims 5 and 13, Gleeson teaches providing messages with a data field to transmit information produced in the application (1408, fig. 14a, col. 15, line 35; data field is a component of the data packet).

As per claims 6 and 14, Gleeson teaches using the protocol stack at least a session layer between the application layer and the physical layer (600, 604, 614, fig. 6; session layer is between the application and physical layers in the protocol stack), in which the protocol used therein contains data frames, containing at least a header field and a data field (data packet contains header and data fields), wherein the method further comprises transferring messages produced in the application layer to the data field of the data frames of the session layer (col. 6, lines 47-56; col-. 15, lines 26-36; message data is generated in the application layer; message data is transferred to the data field of the data packet to be transmitted to another device).

As per claims 8 and 16, Gleeson teaches using the Internet data transmission network at least partly used as the data transmission system (col. 11, lines 27-29; transmission control protocol/Internet protocol 'TCP/IP' allows data to be routed over the Internet).

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleeson and in view of Bhagwat et al, 6,721,805 (hereafter Bhagwat).

As per claims 4 and 12, Gleeson does not explicitly teach dividing said header field at least into first and second different parts, wherein the first part is used in all messages and the second part is used, if necessary, in the transmission of the typespecific information of the message transmitted in the message.

Bhagwat teaches a header field contains plurality of subfields (col. 7, lines 49-57) and subfields can vary depending on the needs of the user (col. 8, lines 19-23). Hence, it would have been obvious to one of ordinary skilled in the art to modify and combine the teachings of Gleeson and Bhagwat to use the desired subfields when required depending on the type of data being transmitted in order to save bandwidth and increase the efficiency of data transmission over the networks.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gleeson and in view of Official Notice

As per claims 7 and 15, Gleeson teaches using RM system at least as the data transmission system. Official notice is used in that It would have been obvious to one of ordinary skill in the art at the time of the invention to use WAP. WAP is a well-known and is frequently used in similar systems.

Response to Arguments

Applicant argues in substance, Gleeson does not teach or disclose the messages being completely formed in the application layer. In response, it should be first noted that numerous changes have been made to the previous rejection rendering some arguments moot (even though the grounds of rejection may be the same). Furthermore, the ambiguity of the independent claims as explained in the outstanding 35 USC 112 rejections render the claims broad and therefore they are interpreted as such. Clarification of claim language would allow for a precise examination of the claims at hand. Gleeson teaches that messages are constructed from information at the application layer. When the application layer packet is constructed, it contains information that is different from messages. The information transmitted is different from the completely formed message in that optimization and one or more conversions are performed subsequently. Also, messages are completely formed and then transferred by the application layer. However, all transmission is done in '0's and '1's and the information must be transmitted via the physical layer (col 9, lines 13-27). Thus, Gleeson still meets the scope of the limitation as *currently* claimed. Claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. In re Sporck, 55 CCPA 743, 386 F .2d 924, 155 USPQ 687 (1986); In re Self, 213 USPQ 1, 5 (CCPA 1982); In re Priest, 199 USPQ 11, 15 (CCPA 1978).

Conclusion

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMN

SUPERVISORY PATENT EXAMINER